

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: John McDonald)
Parcel ID #121DH-012) Knox County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$49,700	\$118,300	\$168,000	\$42,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 31, 2006 in Knoxville, Tennessee. In attendance at the hearing were John McDonald, the appellant, and Knox County Property Assessor's representatives Ralph E. Watson and Jim Beck.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 1417 Southgate Road in Knoxville, Tennessee. The taxpayer purchased subject property on September 20, 2004 for \$172,000.

The taxpayer contended that subject property should be valued at \$160,000. In support of this position, the taxpayer argued that he paid too much for subject property given the various repairs needed at the time of his purchase. The taxpayer appended to his appeal form photographs showing the physical problems requiring repair. In addition, the taxpayer appended to his appeal form three comparable sales he asserted support a reduction in value.

The assessor contended that subject property should be valued at \$168,000. In support of this position, the assessor argued that the taxpayer's September 20, 2004 purchase of subject property for \$172,000 supports the current appraisal of subject property. In addition, the property record card was introduced into evidence.

The first issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the county board of equalization.

The administrative judge finds the taxpayer testified that he is 80 years old. Mr. McDonald stated that he filed an “informal appeal” with the assessor of property and

attended a meeting with a member of the assessor's staff. Mr. McDonald testified that he failed to keep his appointment with the Knox County Board of Equalization because of problems associated with surgery.

The administrative judge finds Mr. McDonald established reasonable cause for not appealing to the Knox County Board of Equalization. Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction over this appeal.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$168,000 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Knox County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that this is not a case where a taxpayer buys a home and subsequently discovers structural damage. The administrative judge finds that the taxpayer had subject home inspected prior to purchasing it. The administrative judge finds that the problems depicted in the photographs essentially constitute routine maintenance. Moreover, the administrative judge finds that many of the repairs were actually completed prior to the relevant assessment date of January 1, 2005.

The administrative judge finds that Mr. McDonald did not introduce any repair estimates to quantify any possible loss in value. The administrative judge finds subject property is currently appraised at \$4,000 less than his purchase price. Absent additional evidence from the taxpayer, the administrative judge finds it must be presumed that the assessor has adequately accounted for any possible loss in value due to the condition of subject residence.

The administrative judge finds that the comparable sales relied on by the taxpayer cannot receive any weight. The administrative judge finds Mr. McDonald testified that his daughter provided him with the sales. The administrative judge finds that his daughter wrote at the bottom of the list as follows: "The 3 best comps to have your value lowered." The administrative judge finds that the comparables were obviously not selected to objectively determine subject property's market value. Moreover, the comparables have not been adjusted or analyzed.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$49,700	\$118,300	\$168,000	\$42,000

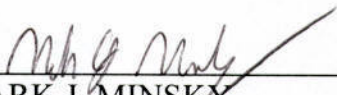
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of February, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John McDonald
John R. Whitehead, Assessor of Property